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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,151

05/31/2006

Jeffrey Allen Cooper

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EXAMINER

ALLISON, ANDRAE S

ART UNIT

PAPER NUMBER

2624

MAIL DATE

DELIVERY MODE

01/20/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/581,151	Applicant(s) COOPER ET AL.	
	Examiner ANDRAE S. ALLISON	Art Unit 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05/31/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :05/31/2006; 09/06/2006; 05/31/2007; 07/09/2007; 03/05/2008; 04/29/2008; 09/03/2008; 09/04/2008.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1 and 13 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 4 of copending Application No. **10/575676**. Although the conflicting claims are not identical, they are not patentably distinct from each other because Claim 1 of 10/581151 has “scaling all the pixel values in the block as indicated by one parameter in the received film grain information”. (Fig2 10/581151 is similar to Fig2 10/575676.)

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 5-6, 13 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Boyce (Pub No.: 2007/0070241) The applied reference has a common Gomila with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e).

As to independent claim 1, Boyce disclose a method for creating a block of MxN pixels with film grain for blending with an image to simulate film grain (method for simulating film grain - see [p][0002]), where N and M are integers greater than zero [p][0009], comprising the steps of: receiving film grain information that includes at least one parameter that specifies an attribute of the film grain to appear in the image block (supplementary enhancement information – see [p][0012]); deriving the non transmitted parameters based on pre-established default values (see [p][0012]); selecting a film grain block of M.times.N pixels from among a set of previously established blocks (see [p][0014]) containing film grain as a function of a pseudo-random number and at least one parameter characterizing the film grain (see [p][0016]); and scaling all the pixel

values in the block as indicated by at least one parameter characterizing the film grain (see [p][0019]); and storing the created block of film grain into a pool of film grain blocks (see [p][0019]).

Claim 13 is rejected for the same reasons as set forth in the rejection of the claim 1, as claim 1 is a method claim for the device claimed in claim 13.

As to claim 5, Boyce teaches the method comprising the steps of selecting a film grain block from among the pool of film grain blocks in accordance with a pseudo random number (16 –see Fig 1) and a luma characteristic of the incoming image decoded (luma pixel – see Fig 2); deblocking opposing edges of the selected film grain block (deblocking left and right edges - see Fig 2); and blending at least a portion of the deblocked selected film grain block with each pixel in the image block (208 –see Fig 2); and clipping the image block pixels blended with film grain (210 – see Fig 2).

As to claims 6, note the discussion of claims 1 and 5 above.

Claim 17 is rejected for the same reasons as set forth in the rejection of the claim 6, as claim 6 is a method claim for the device claimed in claim 17.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2624

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 8-10, 11 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyce (Pub No.: 2007/0070241).

As to claim 2-4, Boyce does not specifically teach the method wherein the selecting step further comprises the step of selecting from among a predetermined number of sets of 4096 values each, wherein each of the predetermined number of sets of values are arranged as a 512.times.8 matrix and wherein the predetermined number of sets of values are stored in 2's complement and range from [-127, 127]. The Examiner takes OFFICIAL NOTICE. One of ordinary skilled in the art would have been motivated to modified the method to include predetermined number with ranges [-127, 127] depending on the number of random number needed to be generated.

As to claims 8-10, note the discussion of claims 2-4 above.

As to claim 11, Boyce teaches a data carrier containing video data for blending with film grain in accordance with the method of claim 7, wherein the data carrier comprises a DVD. Examiner takes OFFICIAL NOTICE. One of ordinary skilled in the art would have been motivated to include a data carrier storing video data for carried the method because data carrier such as DVDs are well known in the art.

Claims 14-16 are rejected for the same reasons as set forth in the rejection of the claims 2-4, as claims 2-4 are method claims for the device claimed in claims 14-16.

Inquires

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDRAE S. ALLISON whose telephone number is (571)270-1052. The examiner can normally be reached on Monday-Friday, 8:00 am - 5:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vikkram Bali can be reached on (571) 272-7415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anand Bhatnagar/
Primary Examiner, Art Unit 2624

/A. S. A./
Examiner, Art Unit 2624

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January 16, 2010